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EMBARQ™

October 1, 2008

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Portals II, Room TW-A325
Washington, DC 20554

Jeffrey S Lanning

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***EX PARTE* NOTICE**

Re: *High-Cost Universal Service Support*, WC Docket No. 05-337; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *Petition for Waiver of Embarq*, WC Docket No. 08-160.

Dear Ms Dortch:

Yesterday, September 30, 2008, David Bartlett and I, representing Embarq, met with Greg Orlando, Legal Advisor to Commissioner Deborah Taylor Tate, and Scott Bergmann, Legal Advisor to Commissioner Jonathan M Adelstein. We discussed the Broadband and Carrier-of-Last-Resort Solution filed by Embarq in the above-referenced proceedings. We also discussed several guidelines for intercarrier compensation.

Embarq suggested that, whether as a part of comprehensive intercarrier compensation, in response to the Recommended Decision of the Federal-State Joint Board, or as a stand-alone action, the Commission could take several readily-achievable steps to substantially improve high-cost support and create a stable foundation for the federal USF. In particular, Embarq summarized a proposal whereby the Commission could stimulate substantial new broadband deployment, stabilize support for CoLR universal service, and create a more-stable foundation for further reform of USF without increasing overall support levels.

Embarq explained that its proposal—the Broadband and Carrier-of-Last-Resort Solution (BCS)—would solve these problems. The basic principle is that price-cap study areas should be converted to more targeted USF support on a wire center basis because implicit support (through study area averaging) does not work for consumers in those areas. Embarq's presentation and the discussion covered the points, and was consistent with, Embarq has made previously in filings in the aforementioned dockets. In sum, the BCS solution would:

(1) stimulate substantial new broadband deployment;

(2) stabilize support for carrier of last resort (CoLR) universal service;

(3) make substantial progress on the recommendations of the Joint Board and this Commission in the three NPRMs issued last fall;

(4) comply with the remand by the United States Court of Appeals for the 10th Circuit;

(5) create a more-stable foundation for further reform of USF; and

(6) do all of this without increasing overall USF support levels.

Embarq made several additional points during the meeting. In summary, Embarq:

- Explained the benefits of both its waiver petition to permit unification of interstate and intrastate access rates and the ITTA intercarrier compensation plan, both of which recognize the need for higher intercarrier compensation rates in rural areas that are more closely aligned with the actual costs of terminating traffic in those jurisdictions If the Commission mandates intercarrier compensation rates that are substantially below-cost, it should be expected that this will generate new arbitrage opportunities, and schemes as arbitrage is aimed at exploiting disparities between rates and costs.
- Demonstrated that the Commission should not and cannot legally mandate any unified rate lower than the cost-based rates specified in section 252(d)(2) for the transport and termination of telecommunications.
- Argued that the Commission does have the legal authority to preempt intrastate access charges to the extent they are different from interstate access charges, provided those revenue streams are preserved and directed to the affected state through another mechanism. Embarq explained, however, that the Commission does not have jurisdiction to mandate reductions in intrastate access revenue streams.
- Explained that the Commission cannot ignore the competitive and financial impact of carrier-of-last-resort (CoLR) obligations when considering intercarrier compensation and universal service reform. While state commissions may make the initial decisions regarding CoLR obligations, approximately 25% of the cost of CoLR service is assigned to the federal jurisdiction. Accordingly, the Commission does have a share of the responsibility for ensuring that carriers are afforded a reasonable opportunity to recover the cost of fulfilling CoLR mandates.
- Demonstrated that subscriber line charges (SLCs) increases are not in the public interest where SLCs are at or near SLC caps (which is the case in many of Embarq's study areas). This is so because such increases would contribute to the cost of CoLR obligations in a manner that is competitively biased in favor of providers exempt from CoLR obligations and unfair to consumers that choose service from a CoLR.

Pursuant to Section 1.1206(b) of the Commission's rules, one copy of this electronic notice is being filed in each of the above-referenced dockets. Please contact me if you have any questions or need anything else.

Sincerely,

Jeffrey S Lanning

Jeffrey S Lanning

cc: Scott Bergmann
Greg Orlando